

November 6, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Transportation File No. **V-2193**
Proposed Ordinance No. **96-552**

ROGER OMHOLT, ET AL.

Petition for Road Vacation
Appeal of Recommendation for Denial by
Department of Transportation

Location: A portion of 204th Drive NE, south of NE 61st
Court, within the plat of Gun-Shy Ridge

Petitioners/ Roger & Emily Omholt &
Appellants: Robert & Gail Wilkes
 c/o Larry J. Smith
 Graham & Dunn
 1420 Fifth Avenue, 33rd Floor
 Seattle, WA 98101-2390

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary: Deny road vacation
Division's Final: Deny road vacation
Examiner: Deny road vacation

PRELIMINARY MATTERS:

Application or petition submitted: January 30, 1995
Department Preliminary Report issued: October 9, 1996

EXAMINER PROCEEDINGS:

Hearing Opened: October 30, 1996, 9:15 a.m.
Hearing Closed: October 30, 1996, 11:25 a.m.

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

Road vacation: Usefulness of right-of-way

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location: Portion of 204th Drive NE,
south of NE 61st Court and

lying between Lots 30 and 31,
plat of Gun-Shy Ridge

Right of way classification: "C"

2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the October 30, 1996, public hearing. The report will be attached to the copies of this report and recommendation which are submitted to the King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area petitioned to be vacated are attached to this Report and Recommendation.
4. This petition for vacation was filed for the primary purpose of precluding future extension of 204th Drive NE to the south and east. The adjacent property to the south and east slopes steeply to the south, but appears to have some developable level area adjacent to the plat of Gun-Shy Ridge and extending to the east. The current owners have no present plans to develop the adjacent land, but object to the elimination of access from 204th Drive Northeast.

The major concern of the residents of Gun-Shy Ridge who are supporting this petition is that 204th Drive NE might be extended to 204th Place NE/208th Avenue NE, an arterial to the southeast. If 204th Drive NE were to connect 204th Place/208th Avenue NE with NE Union Hill Road, there might be substantial use of 204th Drive NE as a shortcut route by commuters seeking to avoid the Union Hill/208th Avenue NE intersection. However, extension of 204th Drive NE to the arterial to the southeast is not presently proposed, and appears from the evidence in this proceeding to be a highly unlikely action at any time in the future.

5. Under the existing zoning (RA-5-P), at least four lots could be developed on the property to the south. The most feasible and safest access to those four lots, based upon the evidence presented in this hearing, would be by a southerly extension of 204th Drive NE from the area proposed to be vacated. Due to severe topographical and sight distance constraints, access to the developable portion of the adjacent property from 204th Place NE would be difficult, if not impossible, under existing regulations.
6. The portion of 204th Drive NE petitioned to be vacated is a useful part of the King County Road System, providing the safest and most practical access to the developable portion of the adjacent property to the south.
7. The King County Road Engineer, based upon recommendations by the King County agencies responsible for land development, traffic planning and engineering, has determined that it is advisable to preserve this right-of-way for possible future use as part of the County road system, and recommends denial of the petition.

CONCLUSIONS:

1. The right-of-way petitioned to be vacated should be preserved for future use to provide access to the adjacent property to the south. The said right-of-way is not useless, but is potentially a useful part of the King County Road System, and should not be vacated.
2. The right-of-way proposed to be vacated contains utilities and is necessary for future improvements to the public water

system which serves this area.

3. Denial of this petition would not prejudice consideration of a future petition to vacate the right-of-way in issue at such time as it might be demonstrated that 204th Drive NE is not needed for the purpose of providing access to the adjacent property to the south.

RECOMMENDATION:

DENY the petition for vacation.

RECOMMENDED this 6th day of November, 1996.

James N. O'Connor
King County Hearing Examiner

TRANSMITTED this 6th day of November, 1996, to the following parties and interested persons:

Mark & Gayle Andrews	Joe & Zoe M. Bolton
Libby & Billy Buckley	Bob & Tina Campbell
Peter & Alice Chang	Margaret D. Christopher
Don Crace	Kent Diamond
Joan & Jerry Dempsey	Scott Dowling
Sharon Everson	John Phillips & Bill Hudson
Clair Jenkins	Lance & Joy McIntosh
Andrea Lairson	Abigail & Katherine Gomulkiewicz
Jim & Paula Miller	Roger & Emily Omholt
City of Redmond Planning Dept.	Tom & Carolyn Rowland
Larry J. Smith/Graham & Dunn	Jane Stensland/Windermere
Linda Tweedie	P.H., S.P., & Alice Trewin
Robert & Gail Wilkes	Terry Haugstad/Viacom, North
Terry Horne/GTE NW, Inc.	Janine DeTracy/DL Dauphiny/U.S. West
Jason Van Nort/WA Natural. Gas	Larry R. Underdahl/METRO
Puget Power	

Tommy Burdette, King County Dept. of Transportation
Sharon Claussen, King County Parks Division
Tom Eksten, King County Dept. of Parks & Cultural Resources
Dennis Gorley, King County Dept. of Transportation
Bill Hoffman, King County Dept. of Transportation
Roderick E. Matsuno, King County Dept. of Transportation
Lloyd Neal, King County Dept. of Transportation
Dave Preugschat, King County Property Services Division
Lisa Pringle, DDES/Land Use Services Division
Lydia Reynolds, King County Dept. of Transportation
Gary Samek, King County Dept. of Transportation
Charlie Sundberg, King County Dept. of Parks & Cultural Resources
Harold Taniguchi, King County Dept. of Transportation
Arthur Thornbury, Metropolitan King County Council
Paul Toliver, King County Dept. of Transportation

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council on or before November 20, 1996. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before November 27, 1996. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal is not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE OCTOBER 30, 1996 PUBLIC HEARING ON KING COUNTY DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION, FILE NO. V-2193, OMHOLT, ET AL - ROAD VACATION PETITION:

James N. O'Connor was the hearing Examiner in this matter. Participating in the hearing were Dennis Gorley, Larry J. Smith, Roger Omholt, Linda Tweedie, Lance McIntosh, Jane Stensland, Libby Buckley, Clair Jenkins, Mark Andrews, and John Phillips.

The following exhibits were offered and entered into the record:

Exhibit No. 1	King County Department of Transportation Preliminary Report to the Hearing Examiner for the October 30, 1996 public hearing on File No. V-2193/Omholt, et al, with attachments of Agency responses and comments (Attachments 1A through 1P)
Exhibit No. 2	Petition transmittal letter, dated January 30, 1995, from Clerk of the Council, to Paul Tanaka/Director/Dept of PW
Exhibit No. 3	Letter, dated January 25, 1996, from Jane Stensland/Windermere (petitioner's agent), to Clerk of the King County Council
Exhibit No. 4	Petition for vacation of a County road, from Roger/Emily Omholt and Robert/Gail Wilkes
Exhibit No. 5	Copies of checks for non-refundable deposits: check dated Jan.25, 1995, to King County Department of Finance, from Gail C. Wilkes (with notation "Gun-shy Ridge/Lot #30"), and check dated January 24, 1995, to King County Department of Finance, from Roger Omholt (with notation "Lot #31/Gun-shy Ridge")
Exhibit No. 6	Map depicting proposed vacation area
Exhibit No. 7	Map of Gun-Shy Ridge vicinity
Exhibit No. 8A	Letter, dated February 10, 1995, from Kent C. Diamond, to Tommy Burdette/KCDOT, opposing proposed road vacation
Exhibit No. 8B	Letter, dated February 10, 1995, from Kent C. Diamond, to Jane Stensland, opposing proposed road vacation
Exhibit No. 9	Letter, dated March 4, 1996, from Jessie Krail/KCDOT, to Jane Stensland, denying proposed road vacation
Exhibit No. 10	Letter, dated March 13, 1996, from Jerrold Brais/KCDOT, to Jane Stensland, stating written appeal procedure
Exhibit No. 11	Copy notice of appeal letter, April 12, 1996, from Larry Smith /Graham & Dunn, to Clerk of the King County Council, with copy of enclosed administrative fee check (\$200.00) and plat map
Exhibit No. 12	Letter, dated June 19, 1996, from Gary Locke, King County Executive, to Jane Hague, Chair, KC Metropolitan Council
Exhibit No. 13	Copy of proposed Ordinance No.96-552, draft dated June 6, 1996
Exhibit No. 14	Notice of hearing on road vacation File No. V-2193
Exhibit No. 15	Affidavit of posting for date of September 27, 1996, subscribed and sworn September 30, 1996
Exhibit No. 16	Gun-Shy Ridge Maps: 16A - Section 8, tp25N, rg 6E, BALD File 388-2, sheet 13 of 13 16B - Section 8, tp25N, rg 6E, BALD File 388-2, sheet 12 of 13 16C - Section 8, tp25N, rg 6E, BALD File 388-2, sheet 2 of 13
Exhibit No. 17	Portion of King County Assessor's map, SW 8-25-6
Exhibit No. 18	Map of Redland/Adelaide vicinity, with Union Hill Road, 204th Place NE, 208th Avenue NE, and 205th Avenue NE highlighted
Exhibit No. 19	Plat map, Kelsey Estates
Exhibit No. 20	Map showing area of proposed road vacation
Exhibit No. 21	Petition (11 pages) from residents of Gun-Shy Ridge, supporting proposed road vacation
Exhibit No. 22	Letter, dated October 27, 1996, from S.P. and Alice Trewin, to King County Hearing Examiner, opposing proposed road vacation

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Attachments

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